

**Notice of Allowability**

Application No.

09/933,267

Examiner

Steven H. Standley

Applicant(s)

KALUSH ET AL.

Art Unit

1646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/25/05.
2. ☒ The allowed claim(s) is/are 18, 28, 32, 19, 29, 33, 24, 25, 26, 27; which are now numbered 1-10, reselectively.
3. ☒ The drawings filed on 8/21/01 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 4/29/05
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

Steven H. Standley, Ph.D.

 6/15/05

***Examiner's Amendment***

The examiner's amendment to the record appears below. The amendment addresses the first line of the specification, which discloses the continuity information related to the application. The examiner believes that because the changes are directed at omitting attorney docket numbering information, and adding information indicating the nature of prior, related applications, the changes do not require authorization by the applicant

The first sentence of the specification has been amended to:

This application is a continuation-in-part of U.S. serial number 09/826,314, filed April 5, 2001, now abandoned, which is a continuation in part of 09/804,076, filed March 13, 2001, now abandoned, which is a continuation-in-part of 09/768,184, filed January 24, 2001, now abandoned, which is a continuation-in-part of 09/692,414, filed 10/20/2000, now abandoned, which claims benefit of provisional applications 60/183,756 and 60/160,626.

***Examiner's Comments***

The information disclosure statement, filed 4/29/05, has been considered. The sequence database results demonstrate that applicants are aware of nucleic acids with identity/homology to the one claimed herein. However, as the BLAST results do not give sufficient identifying information, the Examiner cannot determine if said sequences constitute prior art.

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The Examiner further notes that neither the Murphy et al, nor the Dotzlaw et al references cited in the Copy of European Search Report dated 12/01/04 included in the information disclosure statement, filed 4/29/05, anticipate the claims related to position 64331 of SEQ ID NO: 1 of the instant specification.

***Advisory Information***

In order to be compliant with the restriction requirement, applicant must elect one group in response to the restriction, and make an appropriate election of species based on that election.

Any inquiry concerning this communication should be directed toward examiner Steven Standley (Ph: 571-272-3432), or his supervisor Anthony Caputa (571-272-0829). The examiner can normally be reached Monday through Friday from 8:00 AM to 4:30 PM.

Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (toll free) 866-217-9197.

Steve Standley, Ph.D.

June 14, 2005



**LORRAINE SPECTOR  
PRIMARY EXAMINER**